

No. 9(1)82-6Lab/6396.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Dalmia Dadri Cement Limited Charkhi Dadri.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 53/1980

Between

THE WORKMEN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT LIMITED, CHARKHI DADRI.

Present :—

Nemo, for the workman.

Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the management of M/s Dalmia Dadri Cement Limited, Charkhi Dadri and its workmen by order No. ID/HSR/60-80/50731, dated 23rd September, 1980 to this Tribunal for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the closure notice of M/s Dalmia Dadri Cement Limited, Charkhi Dadri, dated 18th March, 1980 is illegal, unjustified and mala fide ? If so, whether it should be withdrawn and all the workers whose services have been terminated should be deemed to be in continuous service and paid full wages from 19th March, 1980 onwards ?

Notices of the reference were sent to the parties who appeared. The workman filed their claim statement. The proceeding in the reference was stayed by the High Court because the company had gone into liquidation and provisional liquidator was appointed by the High Court. During the pendency of the liquidation proceeding, the company was taken over by the Cement Corporation of India Ltd., under Act No. 31 of 1981. The Dalmia Dadri Cement Limited (Acquisition and Transfer of Undertakings) Act, 1981. Notices were sent to the parties again. Shri Bhim Sen Prabhakar on behalf of the workmen appeared but none appeared on behalf of the management. Shri Bhim Sen Prabhakar was called upon to argue in case the reference of closure could still be adjudicated. He sought adjournment which was granted. In the mean time, notice was also sent to the management's representative. On the date fixed, none appeared on behalf of the parties. I presume that the workman have nothing to say and they are not interested in adjudication of the present reference.

Therefore, I give my award that the workman were not entitled to any relief.

Dated the 17th June, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 636, dated the 18th June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/6397.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Dalmia Dadri Cement Limited, Charkhi Dadri.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 141/1979 &

Complaint No. 1 of 1979

between

THE WORKMAN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT LIMITED, CHARKHI DADRI.

Present :—

Nemo, for the workmen.

Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the management of M/s Dalmia Dadri Cement Limited, Charkhi Dadri and its workman, by order No. ID/HSR/4-79/18270, dated 3rd May, 1979, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether Shri Ramji Mishra should be given minimum wages, leaves provident fund, gratuity etc., like other workmen of the factory with effect from 17th March, 1973 onwards? If so, with what details?
- (2) Whether Shri Ram Mehar Sharma should be given minimum wages, Leaves, Provident Fund, Gratuity etc, like other workmen of the factory from 15th March, 1973 to 5th May, 1978? If so, with what details?
- (3) Whether the termination of service of Shri Ram Mehar Sharma from 6th May, 1978 was justified and in order? If not, to what relief he is entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleading of the parties, the following issues were framed by my learned predecessor on 25th May, 1979:—

- (1) Whether Haryana Government was not the appropriate Government to refer the dispute?
- (2) Whether the reference is had in view of special enactment stated against B preliminary objections in the written statement.
- (3) Whether the union raising the demand has no locus standi to raise the dispute?
- (4) Whether the relationship of Master and Servant existed in the parties at the appropriate time?
- (5) Whether Shri Ramji Mishra should be given minimum wages, leaves, provident fund, gratuity etc. like other workmen of the factory with effect from 17th March, 1973 onwards? If so, with what details?
- (6) Whether Shri Ram Mehar Sharma should be given minimum wages, leaves, provident fund, gratuity etc., like other workmen of the factory from 15th March, 1973 to 5th May, 1978? If so, with what details?
- (7) Whether the termination of service of Shri Ram Mehar Sharma from 6th June, 1978 was justified and in order? If not to what relief he is entitled?

Shri Ram Mehar Sharma, a workman had filed a complaint against the management which was registered as complaint No. 1 of 1979. This complaint was consolidated by order dated 9th July, 1979 of my learned predecessor.

When the case was pending for evidence of the workman, the company went into liquidation and proceeding was stayed by the High Court. In the meantime, the company was taken over by the Cement Corporation of India Limited by Act No. 31 of 1981, The Dalmia Dadri Cement Limited (Acquisition and Transfer Undertaking) Act, 1981. Notices were again sent to the parties. Shri Bhim Sen Prabhakar appeared on behalf of the workmen. He was called upon to argue the reference could still be adjudicated in view of above referred Act, but on the date fixed none appeared on behalf of the parties.

I find that the parties were not interested in the adjudication of the reference. Therefore, the same was dismissed. In view of above, I pass my award that the workmen were not entitled to any relief.

Dated : 17th June, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endst No. 637, dated the 18th June, 1982.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)82-6Lab./6473.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Krishna Fabricators Pvt., Ltd., 315/24, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 81 of 1982

between
SHRI RAM KUMAR WORKMAN AND THE MANAGEMENT OF M/S KRISHNA
FABRICATORS PVT. LTD, 315/24, FARIDABAD

Present : —

Shri Ram Kumar, workman, himself.
None for the management.

AWARD

This State Government of Haryana referred the following dispute between the workman Shri Ram Kumar and the management of M/s Krishna Fabricators Pvt. Ltd., 315/24, Faridabad, by order No. 1D/FD/9/82/10352, dated 11th March, 1982, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of Service of Shri Ram Kumar was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference, notices were issued to the parties. The workman appeared and filed his claim statement. But the management did not appear despite service. Therefore, the case was fixed for *ex parte* evidence of the workman. The concerned workman in evidence examined himself and deposed that he was appointed helper on 4th June, 1981 at the rate of 304 per. mensem. He was removed from service without any reason, enquiry and charge-sheet, on 19th November, 1981.

Believing the *ex parte* statement of the workman, I find that the order of dismissal was wrongful. Therefore, I give my award that the workman is entitled to his re-instatement with full back wages.

Dated the 22nd May, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement. No. 541, dated the 28th May, 1982.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9 (1)82-6 Lab./6475.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Balmaks (Private) Ltd., 17-D Industrial Area, opposite Kelvinator of India Ltd., Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 154/1981

between

SHRI OM PRAKASH SHARMA WORKMAN AND THE MANAGEMENT OF M/S. BALMAKS
(PRIVATE) LIMITED, 17-D, INDUSTRIAL AREA, OPPOSITE KELVINATOR OF INDIA LIMITED,
FARIDABAD

Present :—

Shri J. S. Saroha, for the management.

Nemo, for the workman.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Om Prakash Sharma and the management of M/s Balmaks (Private) Limited, 17-D, Industrial Area, Opposite Kelvinator of India Limited, Faridabad, by order No. 1D/FD/36-81/26595, dated 26th May, 1981 to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Om Prakash Sharma was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, following issues were framed by my order dated 7th August, 1981 :—

(1) Whether the workman resigned his job? If so, to what effect?

- (2) Whether the termination of services of Shri Om Prakash Sharma, was justified and in order? If not, to what relief is he entitled?
- (3) Whether the workman is gainfully employed?

The management examined Shri Baldev Raj, Manager as MW-1, Shri Brahm Dev, General Fitter as MW-2 and Shri Som Nath Agrawal as MW-3. The workman examined himself as his after examining himself, the workman sought opportunity for further evidence as he also wanted to examine a handwriting expert. He was allowed opportunity with a direction that he will supply a copy of report of the hand writing expert to the other party for facility of cross examination. The workman, on the date fixed, sought further opportunity for evidence which was also granted but none appeared for him on the next date and his evidence was closed by my order. He was proceeded *ex parte*. Three more adjournments took place but none appeared on behalf of the workman. Therefore, the *ex parte* arguments were heard.

Issue No. 1 :

MW-1 deposed that he was working for the last 10 years in the factory. He knew the concerned workman who was helper. He brought the attendance register according to which the workman joined on 1st July, 1978. Attendance Register was Ex. M-1, Resignation Ex. M-2 which was signed by the workman at point A. It was accepted,—*vide* remarks at point B. The workman was paid his full account,—*vide* Ex. M-3. Payment was received by the workman from him and he had signed the same in token of receipt before him. Shri Brahm Dev workman had signed as witness. In cross-examination, he denied the suggestion that the workman had joined the service in 1976. He replied that the workman was doing the job of oiling refrigerator jali and loading the same in rickshaw. He denied the suggestion that he was dent fitter. He did not know as by whom Ex. M-2 was written because it was brought by him from outside but was signed in his presence. He denied the suggestion that the workman signed Ex. M-3 blank voucher. MW-2 stated that the workman had signed Ex. M-3 in his presence and he had signed as witness. The workman had received the payment in his presence. In cross-examination, he stated that the workman was paid his account due to the resignation. He had resigned on 14th February, 1981 and received payment of Rs. 482/- in his presence. MW-3 stated that he was a handwriting expert and examined about 2000 documents and he was a member of International Association of Identification. He had examined copy Ex. M-2 and signature of documents marked Q A. He had compared the signature on payment voucher Ex. M-3 and signature on Ex. M-2 with specimen signature mark S-3 to S-5. He was of the definite opinion that the said signatures were written by the writer of the comparison signatures as detailed opinion was given in Ex. MW-3/5 which was correct. The concerned workman stated that he had not submitted any resignation. In cross-examination, he had admitted that he signed wages register for his wages. He denied the suggestion that he had tendered his resignation letter Ex. M-2. The learned representative of the management argued that the workman had resigned his job of his own and he had received his full account. He further argued that signatures on the resignation letter and payment vouchers were proved by two witnesses whereas the workman could not controvert the same by any cogent evidence. He failed to bring even the handwriting expert which he was allowed by the Court.

I have gone through the evidence and find that the Manager MW-1 and other workman MW-2 had categorically stated that the workman signed the documents in their presence and received payment, after acceptance of resignation by signing payment vouchers. The management further brought into evidence handwriting expert who submitted his detail report and gave testimony to prove the signatures on resignation and payment vouchers from the signatures taken into Court from the concerned workman. The workman fail to bring his evidence and stopped to appearing in the case at the later stage. I find that the management has proved resignation letter alongwith payment vouchers by evidence. In these circumstances, I decide this issue in favour of the management.

Issue No. 2 and 3 :

As issue No. 1 has been decided in favour of the management, therefore, the other issue become unnecessary.

While answering the reference, I give my award that the management had not terminated the service of the workman rather he has resigned of his job. He is not entitled to any relief.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 543, dated 28th May, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.